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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 CAVEMAN FOODS LLC,  
9 a California limited liability company  
as assignee of Food Services of  
America Inc.,

10 Plaintiff,

11 v.

12 CAVE MAN KITCHENS INC, a  
Washington corporation, et al.,

13 Defendants.

C19-1667 TSZ

MINUTE ORDER

14 The following Minute Order is made by direction of the Court, the Honorable  
15 Thomas S. Zilly, United States District Judge:

16 (1) Plaintiff Caveman Foods LLC's Motion to Remand, docket no. 10, is  
17 GRANTED. Defendant's removal based on diversity violated the "forum defendant rule"  
18 which precludes removal where the defendant is a citizen of the forum state. *See* 28  
19 U.S.C. § 1441(b)(2); *Conner v. Bart Guerrero Trucking*, 2019 WL 3025205 (W.D. Wash.  
20 July 11, 2019). Likewise, plaintiff's claim of federal jurisdiction based on a theory that  
21 the defendant must bring a compulsory counterclaim in a related case (C18-1274-TSZ)  
pending in this Court is "premised on a misunderstanding concerning Rule 13". *See*  
*Lexington Ins. Co. v. Langei*, 2014 WL 3563380 at \*3. (Rule 13 does not itself prevent  
the filing of a separate lawsuit instead of a compulsory counterclaim). There has been no  
final judgment in the related action and res judicata does not apply. Simply put, there is  
no basis for jurisdiction in this Court.

22 (2) Plaintiff's request for attorney's fees and costs, is GRANTED in part and  
23 defendant is ordered to reimburse plaintiff within 10 days of this minute order for its fees  
and costs in association with the motion to remand in the total amount of \$2,500.

(3) The Clerk is DIRECTED to remand this matter to the King County Superior Court, effective fourteen (14) days after the date of this Minute Order, and to send a copy of this Minute Order to all counsel of record.

Dated this 8th day of January, 2020.

William M. McCool  
Clerk

s/Karen Dews  
Deputy Clerk